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10/698,391	11/03/2003	Osamu Otsuka	DP-977 US	2731

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EXAMINER
PHAM, TUAN

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>30 April 2009</u>.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-10</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) <u>2,4,6,8 and 10</u> is/are allowed.
6) ☒ Claim(s) <u>1,3,5 and 7</u> is/are rejected.
7) ☒ Claim(s) <u>9</u> is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

01/21/2009 has been entered.

Election/Restrictions

2.   Applicant's election without traverse of Group I, claims 1-10 in the reply filed on

04/30/2009 is acknowledged.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   **Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Admitted Prior Art, hereinafter, "APA" in view of Nara (U.S.

Patent. No.: 5,978,414 hereinafter, "Nara").

Regarding claim 1, APA teaches mobile radio equipment comprising (see figure

1):

a radio transmitter/receiver for transmitting/receiving radio data (see figure 1, element 2);

a transmission unit for converting the received data received by the radio transmitter/receiver (see figure 1, element 3);

an application unit for executing applications (see element 4);

a decoder for decoding the data output from the transmission unit (see figure 1, element 5); a memory for storing the decoded data output from the decoder (see figure 1, element 7); and

an input/output section for inputting/outputting the decoded data output from the decoder (see figure 1, element 6, pages 1-3).

It should be noticed that APA fails to teach a load data output section for outputting the decoded data output from the decoder as load data; a load data input section for inputting the decoded data output from the decoder as load data; a judge section for judging the load data on a preset threshold value; and a transmission controller for controlling transmission rate based on a judgment made by the judge section. However, Nara teaches a load data output section for outputting the decoded data output from the decoder as load data (see figure 4, in this case load data output section read on transmission rate judgment 104 for output the data 121-124 from decoding 102, col.8, ln.23-67, col.9, ln.1-67); a load data input section for inputting the decoded data output from the decoder as load data (see figure 4, in this case load data input section read on transmission rate judgment 104 for receiving the input data 113-116 from decoding 102, col.8, ln.23-67, col.9, ln.1-67); a judge section for judging the

load data on a preset threshold value (see figure 4, threshold value judgment 103 has a
preset threshold value 117-120, col.8, ln.23-67, col.9, ln.1-67); and a transmission
controller for controlling transmission rate based on a judgment made by the judge
section (see figure 4, col.14, ln.1-55, it is clearly seen that the logic within the
transmission rate 104 control the transmission rate).

Therefore, it would have been obvious to one of ordinary skill in the art at the
time the invention was made to incorporate the teaching of Nara into view of APA in
order to improve the transmission for the system.

Regarding claims 3 and 5, Nara further teaches a comparator for comparing the
load data with the threshold value in order to judge whether or not the amount of the
data is within a capacity of the mobile radio equipment to process (see col.8, ln.23-67,
col.9, ln.1-67).

Regarding claim 7, Nara further teaches the judge section includes a
comparator for comparing the load data input from the decoder with the threshold
values in order to judge whether or not the amount of the data is within a capacity of the
mobile radio equipment to process (see figure 4, col.8, ln.23-67, col.9, ln.1-67), the
transmission controller requests a base station to reduce the data transmission rate
when the load data exceeds the threshold value; and the transmission controller
requests the base station to increase the data transmission rate when the load data is
below the threshold value (see figure 4, col.8, ln.23-67, col.9, ln.1-67).

Allowable Subject Matter

5.   Claims 2, 4, 6, 8, and 10 are allowed.

6.   Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

   Regarding claim 2, the prior art made of record fails to clearly teach or fairly suggest the feature of the a judge section for judging the load data on a preset threshold value and for judging whether or not a frame loss has occurred in the decoded data as, in combination with other limitations, as specified in the independent claim 2, and further limitations of their respective dependent claims 4, 6, 8, and 10.

   Regarding claim 9, the prior art made of record fails to clearly teach or fairly suggest the feature of the judge section is provided with two threshold values, one for judging whether or not the load data is beyond the a decoding capability of the decoder, and the other for judging whether or not the load data is beneath the decoding capability; the judge section includes a comparator for comparing the load data input from the decoder with the threshold values in order to judge whether or not the amount of the data is within the a capacity of the mobile radio equipment to process; the transmission controller requests a base station to reduce the data transmission rate when the load data exceeds one of the threshold values; and the transmission controller requests the base station to increase the data transmission rate when the load data is below the other threshold value.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Pham whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/TUAN A PHAM/

Primary Examiner, Art Unit 2618